

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION

PERSONNEL ADMINISTRATION

[R06-497]

PREAMBLE

- 1. Sections Affected**
R2-5-403
- Rulemaking Action**
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific):**
Authorizing statute: A.R.S. § 41-763(2) and (6)
Implementing statute: A.R.S. § 41-783(17)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 12 A.A.R. 690, March 3, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Christine Bronson, Human Resources Consultant
Address: Arizona Department of Administration
Human Resources Division
100 N. 15th Ave., Ste. 261
Phoenix, AZ 85007
Telephone: (602) 364-1693
Fax: (602) 542-2796
E-mail: Christine.Bronson@azdoa.gov
- 5. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**
R2-5-403 is being amended in conformance with H.B. 2231, Laws 2006, Ch. 11, to allow for the transfer of accumulated annual leave if an employee or a member of an employee's immediate family has a seriously incapacitating and extended disability caused by pregnancy or childbirth. A new subsection is added to R2-5-403 to permit payment of annual leave to a non-separating employee under certain circumstances. Clarifications and housekeeping revisions are also being made along with the specific changes.
- 6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
The agency did not review any study and does not propose to rely on or not rely on any study for this rulemaking.
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**
The proposed rulemaking affects state service employees only and will not have an impact on small businesses and consumers. Any financial impact would be restricted to a transfer of annual leave time from one employee in an agency to another employee in the same agency or another state service agency. A transfer within the same agency

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would be on a dollar-for-dollar basis without increasing or decreasing expenditures. The cost for a transfer to another agency would be borne by the receiving agency and could increase the receiving agency's expenditures.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Christine Bronson, Human Resources Consultant
Address: Arizona Department of Administration
Human Resources Division
100 N. 15th Ave., Ste. 261
Phoenix, AZ 85007
Telephone: (602) 364-1693
Fax: (602) 542-2796
E-mail: Christine.Bronson@azdoa.gov

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding is not scheduled. To request an oral proceeding or to submit written comments, please contact the human resources consultant listed in item number 4 between the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except Arizona legal holidays, prior to the close of record.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Any material incorporated by reference and its location in the rule:

None

13. The full text of the rule follows:

TITLE 2. ADMINISTRATION

**CHAPTER 5. DEPARTMENT OF ADMINISTRATION
PERSONNEL ADMINISTRATION**

ARTICLE 4. BENEFITS

Section
R2-5-403. Annual Leave

ARTICLE 4. BENEFITS

R2-5-403. Annual Leave

A. Definition. "Annual leave" means a period of approved absence with pay that is not chargeable to another category of leave.

B. Accrual.

1. All employees except temporary, emergency, clerical pool, and part-time employees shall accrue annual leave in accordance with the following schedule:

Credited Service	Hours Bi-weekly
Fewer than 3 years	3.70
3 years but fewer than 7 years	4.62
7 years but fewer than 15 years	5.54
15 years or more	6.47

2. Temporary, emergency, and clerical pool employees shall not accrue annual leave.

3. Part-time employees who:

- a. Work 1/4 time, 1/2 time, or 3/4 time shall accrue a proportional amount of annual leave; ~~or~~
- b. Work a percentage of full-time other than 1/4 time, 1/2 time, or 3/4 time shall accrue annual leave at the next lower rate;
- c. Work less than 1/4 time shall not accrue annual leave.

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3. ~~Temporary, emergency, clerical pool, and part-time employees who work less than 1/4 time shall not accrue annual leave.~~
 4. Eligible employees accrue annual leave on the last day of each bi-weekly pay period if the employee is in a pay status for at least 1/2 of the scheduled work hours in that pay period.
 5. Service in a position that became covered in accordance with A.R.S. Title 41, Chapter 4 (formerly A.R.S. Title 38, Chapter 6), is considered credited service in determining accrual rate change dates.
 6. The effective date for change in the accrual rate is the first day of the pay period immediately following the attainment of the required credited service.
- C. Credited service.
1. Credited service shall be calculated from the first day of the first complete pay period worked.
 2. Credited service shall include:
 - a. A period of service as an employee of a state budget unit before a break in service of less than two years that is not the result of disciplinary action;
 - b. A period of leave without pay of 240 hours or less;
 - c. ~~Approved~~ Family Medical Leave Act (FMLA) leave;
 - d. Military leave taken under A.R.S. §§ 26-168, 26-171, or 38-610; and
 - e. Active military service of an employee who is restored to state service under A.R.S. § 38-298.
- D. Accumulation.
1. Except as provided in subsections (D)(2), ~~and (D)(3); and (D)(4).~~ an employee shall forfeit annual leave accumulated in excess of 240 hours as of the last day of the last pay period that begins in a calendar year, ~~unless the Director authorizes an exception in an individual case. An application for exception submitted to the Director shall contain a plan to use the excess hours during the following calendar year, pay the employee for the excess hours, or a combination of both.~~
 2. An agency head may request an exception to the accumulation limit contained in subsection (D)(1) for an employee in an individual case. An agency head seeking an exception shall submit a written request to the Director that contains a plan to use the excess hours during the following calendar year, pay the employee for the excess hours, or a combination of both. The Director may approve, modify, or deny the request.
 - ~~2-3.~~ An employee who accrues earns additional annual leave for working on a day on which a state holiday is observed may exceed the 240-hour limitation by up to 24 hours. The employee's annual leave hours earned as the result of working on a day on which a holiday is observed may exceed 24 hours, provided:
 - a. The employee's annual leave hours accrued in accordance with subsection (B) do not exceed 240 hours; and
 - b. The combined total of the employee's annual leave hours accrued and annual leave hours earned for working on a day on which a holiday is observed do not exceed 264 hours.
 - ~~3-4.~~ An employee may retain annual leave accumulated as a result of service that became covered in accordance with A.R.S. Title 41, Chapter 4, (formerly A.R.S. Title 38, Chapter 6), without regard to the accumulation limit contained in subsection (D)(1).
- E. Donation of annual leave.
1. Definitions. For the purposes of subsection (E):
 - a. "Immediate family" means the recipient employee's parent, spouse, or child, whether natural, adopted, foster, or step.
 - b. "Family" means spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, or niece. A.R.S. § 41-783(17)(a)
 - c. "Disability that is caused by pregnancy or childbirth" means, as certified by a licensed health care practitioner:
 - i. An employee is unable to work due to the employee's pregnancy, childbirth or medical care associated with the pregnancy or childbirth; or
 - ii. A member of the employee's immediate family requires assistance to perform regular daily activities due to the immediate family member's pregnancy, childbirth or medical care associated with the pregnancy or childbirth.
 - ~~e-d.~~ "Extended illness or injury" means a period of at least three consecutive weeks ~~to a maximum of six consecutive months.~~
 - e. "Seriously incapacitating" means, as certified by a licensed health care practitioner:
 - i. An illness, injury, pregnancy, or childbirth that involves in-patient care; or
 - ii. An illness, injury, pregnancy, or childbirth that involves continuing treatment.
 2. Eligibility: to receive donation of annual leave. An employee who has exhausted all available leave balances is eligible to receive donations of annual leave if, as certified by a licensed health care practitioner:
 - a. The employee is unable to work due to:
 - i. A seriously incapacitating and extended illness or injury, or
 - ii. A seriously incapacitating and extended disability that is caused by pregnancy or childbirth; or

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- b. The employee needs to care for a member of the employee's immediate family who has:
 - i. A seriously incapacitating and extended illness or injury, or
 - ii. A seriously incapacitating and extended disability that is caused by pregnancy or childbirth.
- ~~a-3.~~ Eligibility to donate annual leave. An employee may donate annual leave to ~~an individual~~ another employee who has ~~no accumulated annual~~ exhausted all available leave balances if the individual is:
 - i-a. ~~Another~~ The recipient employee is employed in the same agency as the donating employee; or
 - ii-b. ~~A~~ The recipient employee is a family member of the donating employee who is and employed in another agency.
- b. ~~The recipient employee in the same agency or the recipient family member in another agency may use the donated annual leave to care for the recipient or an immediate family member who has a seriously incapacitating illness or injury.~~
- e. ~~A recipient employee or family member may use a maximum of six consecutive months of annual leave donated for each qualifying occurrence unless the recipient employee or family member applies for Long-term Disability (LTD) by the end of the fifth month. The recipient employee or family member then may continue to use donated annual leave until an LTD determination is made.~~
- ~~d-4.~~ Exhaustion of available leave. Before using donated annual leave, a recipient employee:
 - i-a. ~~With a qualifying illness, or injury, pregnancy or childbirth~~ shall exhaust all available sick leave, compensatory leave, and annual leave; or
 - ii-b. ~~Whose immediate family member has a qualifying illness, or injury, pregnancy or childbirth~~ shall exhaust 40 hours of sick leave granted in accordance with R2-5-404(A)(4), if available, and all available compensatory leave and all annual leave.
- 3. ~~Unused leave. If the recipient employee separates from state service, recovers before using all donated leave, or the need for the donated annual leave is otherwise abated, the agency shall return unused leave to contributors on a pro-rata basis.~~
- 4.5. Calculation of hours donated. An agency head shall adjust the number of hours of annual leave donated in proportion to the hourly rate of pay of the donating employee and the recipient employee. To calculate the number of hours of donated annual leave:
 - a. Multiply the actual number of hours donated by the donating employee's hourly rate of pay; and
 - b. Divide the result by the recipient employee's hourly rate of pay.
- 6. Maximum duration. A recipient employee may use a maximum of six consecutive months of donated annual leave for each qualifying occurrence unless the recipient employee applies for Long-term Disability (LTD) by the end of the fifth month. The recipient employee then may continue to use donated annual leave for up to 60 additional days or until LTD benefit payments begin, whichever is sooner.
- 7. Unused leave. If the recipient employee separates from state service, recovers before using all donated leave, attains the maximum as permitted under the provisions of subsection (E)(6), or the need for the donated annual leave is otherwise abated, the agency head shall return unused leave to contributors on a pro-rata basis.
- F. Use of annual leave. An employee may take annual leave at any time approved by the agency head. An agency head shall not advance annual leave to an employee.
- G. Payment. Subject to funding availability:
 - 1. An agency head may pay an employee at any time for all or any portion of the employee's annual leave that was earned as the result of working on a day on which a state holiday is observed at the employee's current rate of pay.
 - 2. The Director may approve pay to a non-separating employee for all or any portion of the employee's accumulated and unused annual leave at the employee's current rate of pay subject to the following:
 - a. Agency procedures. Before requesting approval to pay an employee under subsection (G)(2), an agency head shall develop written standards and procedures that provide for equal consideration of all employees similarly situated. The agency head shall submit proposed standards and procedures and any subsequent changes to the Director for approval. The agency's procedures shall include at minimum:
 - i. Request and approval procedures;
 - ii. Documentation required to support the request for payment;
 - iii. Any limitations, as applicable, including, but not limited to: the maximum number of times an employee may receive payment under subsection (G)(2); the maximum number of hours an employee may be paid per occurrence; the minimum number of hours of annual leave an employee must have used in the previous 12 months; and the minimum balance an employee is required to maintain after payout, if any.
 - b. Restrictions. If payment would reduce the employee's annual leave balance to fewer than 240 hours, the agency head shall obtain the employee's concurrence.
- G.H. Movement.
 - 1. ~~to~~ To another agency. ~~An If an employee who moves from one agency to another state service agency, shall transfer all the employee's accumulated and unused annual leave shall be transferred to the employee's annual leave account in the new agency, unless the provisions of (H)(2) apply.~~

2. To an employment status ineligible for leave accrual. If an employee becomes ineligible for accrual of annual leave under R2-5-401(A), the agency head, or, the agency head of the losing agency if the employee moves to another state service agency, shall pay the employee for all unused and unforfeited annual leave at the employee's regular rate of pay immediately before the change in status.

~~H.L.~~ Separation. An agency head shall pay an employee who separates from state service for all unused and unforfeited annual leave at the employee's current rate of pay.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS

[R06-487]

PREAMBLE

1. Sections Affected

R4-26-101
R4-26-106
R4-26-108
R4-26-203
R4-26-203.01
R4-26-204
R4-26-205
R4-26-208
Table 1
R4-26-210
R4-26-301
R4-26-302
R4-26-304
R4-26-305

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
New Section
New Section
New Section
New Section

2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 32-2063(A)(9)

Implementing statutes: A.R.S. §§ 12-2297; 32-2063(A)(3), (9) and (11); 32-2067(A); 32-2071(C)-(E); 32-2072; 32-2073(G); 32-2081(D) and (G); and 32-3211

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 12 A.A.R. 1788, May 26, 2006

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Maxine McCarthy, Executive Director
Address: Board of Psychologist Examiners
1400 W. Washington St., Ste. 235
Phoenix, AZ 85007
Telephone: (602) 542-8162
Fax: (602) 542-8279
E-mail: info@psychboard.az.gov

5. An explanation of the rule, including the agency's reasons for initiating the rulemaking:

The agency initiated this rulemaking to make various conforming changes with legislation approved in 2006. Senate Bill 1080 made several amendments to the Board's statutes including a requirement that the Board adopt a code of ethics, changing the range of dates from which national examination scores may be accepted and allowing applicants to take the national examination upon completion of their education and prior to completion of their psychological training. Other rule changes have been proposed to conform with recordkeeping changes made to the Medical Records Act and imposed by House Bill 2786. The remaining significant rule changes stem from concerns raised in the course of the agency's normal business or recommendations of the Board's Assistant Attorneys General. Among these changes are: allowing psychologist to retain scanned records in place of the original hard copies, revising the

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continuing requirements for inactive licensees wishing to reactivate their licenses, codifying the Board's informal interview procedures, and applying the confidentiality of investigative materials to licensees. Finally, the rules also include formatting, style, grammatical and technical changes necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council.

The Board believes that approval of these rules benefits the public and the psychological community by clarifying and updating many of the Board's existing standards and procedures.

- 6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

- 8. The preliminary summary of the economic, small business, and consumer impact:**

The Board anticipates that the adoption of this rulemaking will result in largely indeterminate savings to licensees, many of whom are small business owners of their own individual, private practices. No real impact to consumers is expected and the increased costs to the Board should also be negligible. Applicants will see a small increase in costs by having to pay for a self-query from the National Practitioner Data Bank and Healthcare Integrity Protection Data Bank, which amounts to about \$8-10. Licensees will see savings in terms of recordkeeping by only having to retain records for six years instead of seven and being able scan and store records electronically. These changes will result in savings of storage space and thus cost to licensees.

Licensees on inactive status who seek to reactivate their licenses will have a savings in terms of the number of reduced continuing education hours they will be required to complete in order to actively practice again. This also reduces the amount of time that Board staff would have to spend in reviewing documentation of hundreds of hours of CE.

Applicants will now be able to take the national examination upon completion of their doctoral degree and before completing their supervised psychology training. This could result in fewer exam failures, as applicants will be taking the exam sooner while their psychology coursework is arguably fresher in their minds. This would result in a savings to applicants and an indeterminate but minimal loss of revenue to the Board. However, applicants who take the exam early may now leave their applications on file with the Board for a period of up to five years pending completion of their training. This will result in the Board needing additional filing space for these pending files. It will also necessitate a second review of these applications by the Board for approval for licensure, once these applicants have completed their training.

Senate Bill 1080 removed the fee associated with national examination from the Board's statutes since the Board has not been collecting this fee since 2000, as applicants now pay for their examinations directly to the testing company. The sale of customized computer discs that contain licensee mailing labels at a charge of \$.30 per name was also eliminated since the Board has not sold such discs due to the impracticability of such requests. Therefore, no loss of revenue will result due the removal of these fees.

The rule would require the Board to now provide copies of the American Psychological Association's "Ethical Principles of Psychologists and Code of Conduct" to parties who request it. This would provide an unsubstantial amount of revenue to the Board for copies at \$0.25 per page.

- 9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Marcus Harvey, Director
Address: Board of Psychologist Examiners
1400 W. Washington St., Ste. 235
Phoenix, AZ 85007
Telephone: (602) 542-8161
Fax: (602) 542-8279
E-mail: licensing@psychboard.az.gov

- 10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

No oral proceeding is scheduled. However, persons may request an oral proceeding on the proposed rule by the contacting the Board's office during regular office hours Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding state holidays, for up to 30 days after the publication of this Notice of Proposed Rulemaking in the *Register*.

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11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Any material incorporated by reference and its location in the rules:

The "Ethical Principles of Psychologists and Code of Conduct" adopted by the American Psychological Association is incorporated by reference in new Section R4-26-301.

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

Section

- R4-26-101. Definitions
- R4-26-106. Client Records
- R4-26-108. Fees

ARTICLE 2. LICENSURE

Section

- R4-26-203. Application for Licensure
- R4-26-203.01. Application for Licensure by Credential Under A.R.S. § 32-2071.01(B)
- R4-26-204. Examinations
- R4-26-205. Renewal of License
- R4-26-208. Time-frames for Processing Applications
- Table 1. Time-frames (in Days) for Processing Applications
- R4-26-210. Internship or Training Experience

ARTICLE 3. REGULATION

Section

- R4-26-301. ~~Repeated~~ Rules of Professional Conduct
- R4-26-302. ~~Reserved~~ Informal Interviews
- R4-26-304. ~~Reserved~~ Representation Before the Board by Attorney Not Admitted to State Bar of Arizona
- R4-26-305. ~~Reserved~~ Confidentiality of Investigative Materials

ARTICLE 1. GENERAL PROVISIONS

R4-26-101. Definitions

In this Chapter:

1. No change
2. No change
3. No change
4. No change
5. No change
6. "Case," in the context of R4-26-106(D), means a legal cause of action instituted before an administrative tribunal or in a judicial forum that relates to a psychologist's practice of psychology.
7. No change
8. "Clarifying information" means information that a complainant or licensee wishes to convey to the Board that is intended to clarify what the complainant or licensee believes to be inaccurate assumptions or information suggested by a Board member during case discussions before the Complaint Screening Committee or the full Board or during deliberations in an informal interview.
- 8-9. No change
10. "Complaint Screening Committee" means the committee of the Board established by A.R.S. § 32-2081(D) to initially review all complaints against licensees.
- 9-11. "Confidential record" means:
 - Minutes of an executive session of the Board;
 - A record that is classified as confidential by a statute or rule applicable to the Board;

Notices of Proposed Rulemaking

An applicant's or licensee's college or university transcript if requested by a person other than the applicant or licensee;

All materials relating to an investigation by the Board, including a complaint, response, client record, witness statement, investigative report, and any other information relating to a client's diagnosis, treatment, or personal or family life;

Home address, home telephone number, and e-mail address of an applicant or a licensee;

Test scores of an applicant or a licensee;

Date of birth of an applicant or a licensee; and

Social ~~security~~ Security number of an applicant or a licensee.

~~10-12.~~ "Credentialing agency" means the Association of State and Provincial Psychology Boards, the National Register of Health Service Providers in Psychology, ~~or~~ and the American Board of Professional Psychology.

~~11-13.~~ No change

~~12-14.~~ No change

~~13-15.~~ No change

~~14-16.~~ No change

~~15-17.~~ No change

~~16.~~ "Gross negligence" means a psychologist knows or has reason to know of facts that would lead a reasonable psychologist to realize that the psychologist's act or failure to act creates an unreasonable risk of harm and involves a high degree of probability that substantial harm may result.

~~18.~~ "Gross negligence" means an extreme departure from the ordinary standard of care.

~~17-19.~~ No change

~~18-20.~~ No change

~~19-21.~~ No change

~~20-22.~~ No change

~~21-23.~~ No change

~~22-24.~~ No change

~~23-25.~~ "Residency" means the same as in A.R.S. § ~~32-2071(H)~~ 32-2071(I), but does not include a domicile or hospital residency.

~~24-26.~~ No change

~~25-27.~~ No change

~~26-28.~~ No change

~~27-29.~~ No change

~~28-30.~~ No change

R4-26-106. Client Records

A. No change

B. No change

C. A psychologist shall retain all client records under the psychologist's control, including records of a client who died, for a minimum of ~~seven~~ six years from the date of the last client activity, except copies of audio or video tapes created primarily for training or supervisory purposes. If a client is a minor, the psychologist shall retain all client records for a minimum of three years past the client's 18th birthday or ~~seven~~ six years from the date of the last client activity, whichever is longer.

D. No change

E. A psychologist who is on inactive status under A.R.S. § 32-2073(E) is not exempt from this ~~rule~~ Section.

E. A psychologist may retain legible copies of scanned or electronic records rather than the original hard copies of the records. The psychologist shall ensure that scanned and electronic records are securely stored and electronic backup copies are maintained.

R4-26-108. Fees

1. No change

2. No change

3. No change

4. No change

5. No change

6. No change

7. No change

~~8. National examination: \$475~~

~~9-8.~~ No change

~~10-9.~~ No change

~~11-10.~~ No change

~~12-11~~.No change

~~13-12~~.No change

~~14-13~~.No change

~~15-14~~.No change

~~16-~~ Customized computerized discs that contain licensee mailing labels: \$.30 per name

~~17-15~~.No change

~~18-16~~.No change

ARTICLE 2. LICENSURE

R4-26-203. Application for Licensure

- A. An applicant for a psychologist license shall submit an application packet to the Board that includes an application form; provided by the Board, that is signed and dated by the applicant; and notarized, ~~and that~~ contains the following information:
1. Applicant's name, business and home addresses, ~~social security~~ Social Security number, business and home telephone numbers, and date and place of birth;
 2. No change
 3. No change
 4. Whether the applicant has applied for licensure as a psychologist in any other jurisdiction that the applicant is not licensed in, and if so, the date of each application;
 5. No change
 6. Whether the applicant has ever taken the national examination ~~in psychology~~, name of each jurisdiction in which taken, and each date of examination;
 7. No change
 8. No change
 9. No change
 10. No change
 11. No change
 12. No change
 13. Whether the applicant is currently under investigation for or has been found guilty of violating a professional code of conduct by any jurisdiction;
 14. No change
 15. No change
 16. Whether the applicant has been sued ~~in civil court~~ or prosecuted ~~in criminal court pertaining to~~ for an act or omission relating to the applicant's practice as a psychologist, the applicant's work under a certificate or license in another profession, or the applicant's work as a member of a profession in which the applicant was not certified or licensed;
 17. Whether the applicant has ever been involuntarily terminated or resigned instead of termination from any psychological or behavioral health position or related employment;
 - ~~17-18~~. Whether the applicant ~~is~~ currently has an addiction ~~addicted~~ to alcohol or any drug that in any way impairs or limits the applicant's ability to practice;
 - ~~18-19~~.No change
 - ~~19-20~~.No change
 - ~~20-21~~.No change
 - ~~21-22~~.No change
 - ~~22-23~~.Whether the applicant's internship training program was an American Psychological Association-approved program or a member of the Association of Psychology and Postdoctoral Internship Centers;
 - ~~23-24~~.No change
 - ~~24-25~~.No change
 - ~~25-26~~.No change
 - ~~26-27~~.No change
 - a. Are psychologists licensed or certified to practice psychology in a United States' or Canadian jurisdiction and who are not members of the Arizona Board of Psychologist Examiners;
 - b. Are familiar with the applicant's work experience in the field of psychology or in a postdoctoral program within the three years immediately before the date of application. If more than three years have elapsed since the applicant last engaged in professional activities in the field of psychology or in a postdoctoral program, the references may ~~be from~~ pertain to the most recent three-year period in which the applicant engaged in professional activities in the field of psychology or in a postdoctoral program; and
 - c. No change
 - ~~27-28~~.No change

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~~28-29~~. No change

~~29-30~~. No change

~~30-31~~. No change

~~31-32~~. No change

33. The results of a self-query from the National Practitioner Data Bank-Healthcare Integrity and Protection Data Bank;

~~32-34~~. No change

~~33-35~~. No change

B. No change

1. No change

2. An official document from the degree-granting institution indicating that the applicant has completed a residency that satisfies the requirements of A.R.S. § ~~32-2071(H)~~ 32-2071(I);

3. An affidavit from the applicant's supervisor, if available, or a psychologist knowledgeable of the applicant's internship training program, verifying that the applicant's internship training program meets the requirements in A.R.S. § ~~32-2071(D)~~; ~~and~~

4. An affidavit from the applicant's postdoctoral supervisor, if available, or a psychologist knowledgeable of the applicant's postdoctoral experience verifying that the applicant's postdoctoral experience meets the requirements in A.R.S. § ~~32-2071(E)~~; and

5. No change

C. In addition to the requirements in subsections (A) and (B), an applicant shall ensure that an official notification of the applicant's score on the national examination is provided to the Board. An applicant who has passed the national examination and is seeking an examination waiver under A.R.S. § ~~32-2072(C)(1)~~ 32-2072(A) shall have the examination score sent directly to the Board by the Association of State and Provincial Psychology Boards or by the jurisdiction ~~in~~ for which the applicant originally passed the examination.

R4-26-203.01. Application for Licensure by Credential Under A.R.S. § 32-2071.01(B)

A. No change

1. An application form, provided by the Board, signed and dated by the applicant, that contains the information required by R4-26-203(A)(1) through ~~(25)~~ (26), and R4-26-203(A)~~(29)~~ (30) through ~~(33)~~ (35);

2. No change

a. Holds a current Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards; ~~or~~

b. Holds a current National Register Health Service Provider in Psychology (NRHSPP) credential at the ~~Doctoral Level~~ doctoral level under A.R.S. § 32-2071; or

c. No change

3. No change

B. An applicant for a psychologist license by credential based on a National Register Health Service Provider in Psychology credential also shall have passed the national examination and shall have notification of the examination score sent directly to the Board by the Association of State and Provincial Psychology Boards or by the jurisdiction ~~in~~ for which the applicant originally tested.

C. No change

R4-26-204. Examinations

A. General rules.

1. Under A.R.S. § ~~32-2072(B)~~ 32-2072(C), an applicant who fails the national examination at least three times in Arizona or any other jurisdiction, shall comply with the following requirements before taking another national examination:

a. No change

b. The applicant shall submit a new application that includes documentation of the applicant's professional activities since the date of the original application, including any actions taken under Section (A)(1)(a), in addition to the information required on the original application.

2. Examination deadline. Unless the Board grants an extension, the Board shall close the file of an applicant approved to sit for a Board examination who fails to sit for the examination within one year from the date of the Board's approval. ~~An applicant who is approved to sit for the examination before the effective date of this Section has one year from the effective date of this Section in which to take the examination. An applicant whose file has been closed and who later wishes to pursue licensure shall reapply and pay the applicable fee. Upon written request to the Board's Executive Director received by the Board on or before the applicant's examination deadline, the Board shall grant the applicant one extension of up to six months to sit for the examination. This Section does not apply to an applicant approved to take the national examination before completion of 3,000 hours of supervised training experience as permitted under A.R.S. § 32-2072(C).~~

3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change
 - i. No change
 - j. No change
 - k. No change
- B. National examination. Under A.R.S. § 32-2072, the Board shall require that an applicant take and pass the national examination. An applicant approved by the Board to take the national examination passes the examination if the applicant's score equals or exceeds the passing score ~~recommended by the Association of State and Provincial Psychology Boards specified in A.R.S. § 32-2072(A).~~ When the Board receives the examination results, the Board shall notify the applicant in writing of the results.
- C. Additional examination.
 1. No change
 2. Under A.R.S. § ~~32-2072(A)~~ 32-2072(B), the Board may administer an additional examination to all applicants to determine the adequacy of the applicant's knowledge and application of Arizona law. The additional examination may also cover the practice of psychology, ethical conduct, and psychological assessment and treatment practices.
 - a. No change
 - b. No change
 - c. No change

R4-26-205. Renewal of License

- A. The Board considers ~~a~~ license renewal ~~applications~~ application timely filed if delivered to the Board's office and date stamped or postmarked before May 1 of the year that the license expires.
- B. No change
 1. The applicant's name, business and home addresses, ~~social security~~ Social Security number, license number, business and home telephone numbers, e-mail address, gender, date of birth, and a designated preference for directory and mailing addresses;
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
 7. Whether the applicant has ever relinquished responsibilities, resigned a position, or been ~~freed~~ terminated while a complaint against the applicant was being investigated or adjudicated ~~against the applicant~~;
 8. No change
 9. Whether the applicant has been disciplined by any agency or regulatory board of any jurisdiction, health care institution, provider panel, or ethics panel for acts pertaining to the applicant's conduct as a psychologist or as a professional in any other field, and if so, a report of those actions including the name and address of the disciplinary agency, the nature of the action, and a statement of the charges and findings;
 10. No change
 11. No change
 12. Whether the applicant has been sued or charged in civil or criminal court for an act relating to the applicant's practice as a psychologist, the applicant's work under a license or certificate in another profession, or the applicant's work as a member of a ~~particular~~ profession;
 13. No change
 14. Whether the applicant has had an application for membership ~~to~~ in any professional organization rejected, or has had any professional organization suspend or revoke the applicant's membership, place the applicant on probation, or otherwise censure the applicant for unethical or unprofessional conduct or other violation of eligibility or membership requirements;
 15. No change
 16. No change
 - a. No change
 - b. Voluntary inactive status, or

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e. Retirement, or

~~d-c.~~ No change

17. Whether the applicant is requesting ~~expired~~ retired status;

18. Whether the applicant has prepared a written protocol for the secure storage, transfer, and access of the medical records of the psychologist's patients, in accordance with the provisions of A.R.S. § 32-3211;

~~18-19.~~ No change

~~19-20.~~ No change

C. ~~If a~~ A licensee ~~who~~ applies for renewal in a timely manner, but fails to complete the required 60 hours of continuing education, ~~the license shall expire. A licensee~~ may reinstate the expired license and continue practicing between May 1 and July 1 by paying by July 1 the reinstatement fee in R4-26-108, in addition to the regular renewal fee; under A.R.S. § 32-2074(B). The licensee shall complete the continuing education requirements by July 1 of the same year.

D. No change

a. No change

b. No change

c. No change

E. No change

R4-26-206. Reinstatement of License from Inactive to Active Status

A. Except as provided in subsection (C). When considering reinstatement of a psychologist from inactive status to active status, the Board shall presume that the psychologist has maintained and updated the psychologist's professional knowledge and capability to practice as a psychologist if the psychologist presents to the Board documentation of completion of a prorated amount of continuing education, calculated under subsection (B).

B. Except as provided in subsection (C). To calculate the minimum number of continuing education hours required for reinstatement to active status, the Board shall divide the 60 hours of continuing education required by 24 and multiply that amount by the number of months that have elapsed since the licensee began inactive status.

C. A psychologist who began inactive status before July 2, 2005 may reinstate a license to active status by demonstrating completion of a minimum of 60 hours of continuing education consistent with current requirements and completed during the previous two-year license renewal period.

R4-26-208. Time-frames for Processing Applications

A. No change

B. No change

1. No change

a. No change

b. An application for licensure from an applicant licensed in another jurisdiction who is applying for an examination waiver under A.R.S. § ~~32-2072(C)(1)~~ 32-2072(A), on the date the Board receives an application packet and ends on the date the Board sends an applicant a written notice of administrative completeness;

c. No change

d. No change

e. No change

f. No change

g. No change

2. If an application packet is incomplete, the Board shall send an applicant a written notice specifying the deficiencies. The administrative completeness review time-frame and the overall time-frame are suspended from the date of mailing this notice until the date the Board receives a complete application packet from the applicant. An applicant shall supply the missing information within the time specified in Table 1 from the date of the notice. If the applicant fails to do so, the Board may close the file unless the applicant requests a denial of the application within 30 days from the date of the notice. ~~An applicant whose file has been closed and who later wishes to pursue licensure shall reapply and pay the applicable fee.~~

3. No change

4. No change

C. No change

1. No change

a. No change

b. An application for licensure from an applicant licensed in another jurisdiction, who is applying for an examination waiver under A.R.S. § ~~32-2072(C)(1)~~ 32-2072(A), on the date the Board sends the applicant written notice of administrative completeness and ends on the date the Board approves or denies the application;

c. No change

d. No change

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- e. No change
- f. No change
- g. No change

2. No change

D. The Board shall close the file of an applicant approved to sit for the national examination before completion of 3,000 hours of supervised training experience who fails to document:

1. Completion of the national examination, or

2. The minimum required amount of training within the time from the date of the Board's approval to the date of the expiration of the time-frame specified under R4-26-210(B).

E. An applicant whose file has been closed and who later wishes to pursue licensure shall reapply and pay the applicable fee.

~~D-E.~~ No change

~~E-G.~~ No change

~~F-H.~~ No change

~~G-I.~~ No change

~~H-J.~~ No change

Table 1. Time-frames (in days) for Processing Applications

Type of Time-frame	Statutory or Rule Authority	Administrative Completeness Time-frame	Time to Respond to Notice of Deficiency	Substantive Review Time-frame	Time to Respond to Request for Additional Information	Overall Time-frame
Approval or denial to take the national examination	A.R.S. §§ 32-2071, 32-2071.01, 32-2072; and A.A.C. R4-26-204	30	240	90	240	120
Approval or denial of application for licensure by examination waiver	A.R.S. §§ 32-2071, 32-2071.01, 32-2072(C)(1) <u>32-2072(A)</u>	30	240	90	240	120
Approval or denial of application for licensure by credential	A.R.S. §§ 32-2071.01, 32-2072; and A.A.C. R4-26-203.01	30	240	90	240	120
Approval or denial to take additional examination	A.R.S. §§ 32-2071, 32-2071.01, 32-2072; and A.A.C. R4-26-204	30	240	90	240	120
Approval or denial of application for renewal of license	A.R.S. § 32-2074; A.A.C. R4-26-205	60	N/A	90	N/A	150
Approval or denial of application for reinstatement of expired license	A.R.S. § 32-2074; A.A.C. R4-26-206	60	N/A	90	N/A	150
Approval or denial of extension for continuing education requirement	A.R.S. § 32-2074 A.A.C. R4-26-207	60	N/A	90	N/A	150

R4-26-210. Internship or Training Experience

Notices of Proposed Rulemaking

- A.** The Board shall use the following criteria to determine if internship or training experience complies with A.R.S. § 32-2071(D):
1. No change
 2. No change
 3. No change
 4. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 5. No change
 6. No change
 7. No change
- B.** Training deadlines. Under A.R.S. § 32-2072(C), an applicant approved to take the national examination before completion of the applicant's entire 3,000 hours of supervised training experience shall complete the remaining training required within the following time-frames:
1. Thirty-six consecutive months for an applicant who has only completed the first 1,500 hours of supervised internship training.
 2. Sixty consecutive months for an applicant who has completed neither the first 1,500 hours of supervised internship training nor the second 1,500 hours of supervised postdoctoral training.

ARTICLE 3. REGULATION

R4-26-301. ~~Repeated~~ Rules of Professional Conduct

A psychologist shall practice psychology in accordance with the ethical standards contained in standards 1.01 through 10.10 of the "Ethical Principles of Psychologists and Code of Conduct" adopted by the American Psychological Association effective June 1, 2003, the provisions of which are incorporated by reference. This incorporation does not include any later amendments or editions of the incorporated matter. Copies of these standards are available from the American Psychological Association Order Department, 750 First St., NE, Washington, DC 20002-4242 or the office of the Board of Psychologist Examiners.

R4-26-302. ~~Renumbered~~ Informal Interviews

- A.** The Board shall, when investigating a complaint, send written notice of an informal interview to a licensee who is the subject of the complaint, by personal service or certified mail, return receipt requested, at least 20 days before the informal interview.
- B.** The written notice shall contain:
1. The time, date, place of the interview;
 2. An explanation of the informal nature of the proceedings;
 3. The licensee's right to appear with or without legal counsel;
 4. A statement of the allegations and issues involved;
 5. The licensee's right to a formal hearing instead of the informal interview; and
 6. Notice that the Board may take disciplinary action as a result of the deliberations of the informal interview;
- C.** An informal interview shall proceed as follows:
1. Introduction of the licensee and, if applicable, legal counsel for the licensee;
 2. Introduction of the Board members, staff, and Assistant Attorney General present;
 3. Swearing in of the licensee;
 4. Brief summary of the allegations and purpose of the informal interview;
 5. Optional opening comments by licensee;
 6. Interviewing of the licensee;
 7. Optional comments by complainant;
 8. Optional additional comments by licensee;
 9. Deliberation and deciding the case by the Board.
 - a. The Board Chairperson shall decide whether to allow clarifying information as defined in R4-26-101 during deliberations.
 - b. The Board Chairperson may reopen and repeat steps 6-8 if the clarifying information suggests a need for further questioning of the licensee.

R4-26-304. ~~Renumbered~~ Representation Before the Board by Attorney Not Admitted to State Bar of Arizona

An attorney who is not a member of the State Bar of Arizona shall not represent a party before the Board unless the attorney is admitted to practice pro hac vice before the Board under Rule 38(a) of the Arizona Rules of the Supreme Court.

R4-26-305. Reserved Confidentiality of Investigative Materials

- A.** Except as provided in this Section, a psychologist shall keep information associated with an investigation by the Board confidential, including materials defined as confidential records under R4-26-101. A psychologist shall not provide these materials or any information contained in these materials to any person or entity, other than the psychologist's attorney, except:
1. For redacted summaries that ensure the anonymity of the client, the nature of a complaint, the processes utilized by the Board, and the outcomes of a case;
 2. As required by federal or Arizona law;
 3. As required by a court order compelling production; or
 4. If disclosure is protected under the United States or Arizona Constitutions.
- B.** A psychologist who violates this rule commits an act of unprofessional conduct.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 38. BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

[R06-492]

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-38-105 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-2904(3)
Implementing statute: A.R.S. §§ 32-2914 and 32-2916
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**
Notice of Rulemaking Docket Opening: 42 A.A.R. 3904, October 20, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|---|
| Name: | Christine Springer, Executive Director |
| Address: | Board of Homeopathic Medical Examiners
1400 W. Washington, Ste. 230
Phoenix, AZ 85004 |
| Telephone: | (602) 542-8154 |
| Fax: | (602) 542-3093 |
| E-mail: | chris.springer@azhomeopathbd.az.gov |
- 5. An explanation of the rules, including the agency's reasons for initiating the rules:**
The Board is raising fees to meet increased costs associated with regulation and to realize revenue sufficient to operate the Board beyond the current fiscal year.
The Board is amending the rule to increase the fee charged for an application for a homeopathic physician, the renewal of license fee for a homeopathic physician, the renewal of registration fee for a homeopathic medical assistant, and the renewal of dispensing permit fee for a homeopathic physician.
- 6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
The Board did not review or rely on any study related to this rulemaking.
- 7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**

Notices of Proposed Rulemaking

This preliminary economic impact summary provides information regarding the need to increase fees relative to the board responsible for regulating 107 physician licensees, 20 homeopathic medical assistants, and 60 dispensing physicians.

In this preliminary impact summary, “minimal” means less than \$1,000, “moderate” means \$1,000 to \$10,000,” “substantial” means greater than \$10,000 in additional costs and revenues.

Cost Bearers

The Board will incur a minimal cost from the rulemaking process and a minimal cost associated with noticing licensees and registrants of the changes to the rules. The costs associated with the increase in fees will be borne by prospective physician applicants, licensed homeopathic physicians, registered homeopathic medical assistants and those physicians that hold a current dispensing permit. The public may be impacted minimally if a physician chooses to pass the increase in the fee to their patients. The Board may be impacted if physicians and medical assistants allow their licenses and registrations to lapse as a result of the increase in the fees.

Beneficiaries

The Board will benefit by the increase in fees by obtaining sufficient cash to continue operations. Patients of homeopathic physicians would benefit by having the Board continue operations in a regulatory capacity designed to protect the health and welfare of the public.

The costs associated with other political subdivisions, such as the Secretary of State’s Office for publishing the rules is minimal. The cost for review of the rules by the Governor’s Regulatory Review Council is minimal.

The costs associated with the increase in fees to business are minimal for the reasons discussed above. While it is true the physicians and medical assistants must pay additional fees to maintain their homeopathic medical license, the costs are minimal when spread out amount all potential patients.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Christine Springer, Executive Director
Address: Board of Homeopathic Medical Examiners
1400 W. Washington, Ste. 230
Phoenix, AZ 85004
Telephone: (602) 542-8154
Fax: (602) 542-3093
E-mail: chris.springer@azhomeopathbd.az.gov

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

The Board has scheduled the following oral proceedings:
Date: March 13, 2007
Time: 11:30 a.m.
Location: 1400 W. Washington
Basement Conference Room, B-1
Phoenix, AZ 85007

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 38. BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

ARTICLE 1. GENERAL

R4-38-105. Fees

ARTICLE 1. GENERAL

R4-38-105. Fees

The Board may charge the following fees according to A.R.S. § 32-2914 and § 32-2916:

- | | |
|--|-------------------------------------|
| 1. Application for license: | \$500.00 <u>\$550.00</u> |
| 2. Issuance of initial license: | \$250.00 |
| 3. Annual renewal of license: | \$600.00 <u>\$975.00</u> |
| 4. Late renewal penalty: | \$350.00 |
| 5. Application for dispensing permit: | \$200.00 |
| 6. Annual renewal of dispensing permit: | \$150.00 <u>\$200.00</u> |
| 7. Locum tenens registration application: | \$200.00 |
| 8. Locum tenens registration issuance: | \$100.00 |
| 9. Application for registration to conduct a practical education course for supervised medical assistants: | \$150.00 |
| 10. Annual renewal of registration to conduct a practical education course: | \$50.00 |
| 11. Initial application for supervision of medical assistant: | \$200.00 |
| 12. Triennial renewal of supervision of medical assistant: | \$50.00 |
| 13. Annual renewal for registration of medical assistant: | \$100.00 <u>\$200.00</u> |
| 14. Annual directory: | \$25.00 |
| 15. Copies, per page: | \$ 0.25 |
| 16. Copies, per audio tape | \$ 35.00 |
| 17. Copies, per 1.44 M computer disk: | \$100.00 |
| 18. Mailing lists - non-commercial (per name) | \$ 0.05 |
| 19. Mailing lists - commercial (per name) | \$ 0.25 |
| 20. Mailing list labels (per name) | \$ 0.30 |
| 21. Copy of statutes or rules, each | \$ 5.00 |